

# PATENT COOPERATION TREATY

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MARSHALL O'TOOLE

From the:  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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*Karin  
Please fill*

**PCT**

WRITTEN OPINION

(PCT Rule 66)

Date of mailing (day/month/year) <span style="float: right;">08. 03. 99</span>	
Applicant's or agent's file reference <b>28049/33270</b>	<b>REPLY DUE</b> <span style="float: right;">within 1 month(s) from the above date of mailing</span>
International application No. <b>PCT/US97/09218</b>	International filing date (day/month/year) <b>27/05/1997</b>
	Priority date (day/month/year) <b>22/01/1997</b>
International Patent Classification (IPC) or both national classification and IPC <b>H04H9/00</b>	
<b>DOCKETED: 4/8/99</b>	
Applicant <b>NIELSEN MEDIA RESEARCH, INC.</b>	

1. This written opinion is the second drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☒ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain document cited
  - VII ☒ Certain defects in the international application
  - VIII ☒ Certain observations on the international application
3. The applicant is hereby invited to reply to this opinion.
 

**When?** See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d). **DOCKETED**

**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

**Also:** For an additional opportunity to submit amendments, see Rule 66.4.  
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.  
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: **22/05/1999.**

Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. (+49-89) 2399-0 Tx: 523856 epmu d Fax: (+49-89) 2399-4465	Authorized officer / Examiner <b>Alulo Navarro, A</b>  Formalities officer (incl. extension of time limits) <b>Cremona, P</b> Telephone No. (+49-89) 2399 8244
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## WRITTEN OPINION

International application No. PCT/US97/09218

### I. Basis of the opinion

1. This opinion has been drawn on the basis of (*substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed".*):

#### Description, pages:

1-57 as originally filed

#### Claims, No.:

1-56 as received on 05/02/1999 with letter of 04/02/1999

#### Drawings, sheets:

1/5-5/5 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

3. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

### III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been and will not be examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 1-56 (no detailed examination possible),

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):

- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-56 do not permit to determine the extent of the examination, and the claims are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☐ no international search report has been established for the said claims Nos. .

#### IV. Lack of unity of invention

1. In response to the invitation (Form PCT/IPEA/405) to restrict or pay additional fees, the applicant has:

- ☐ restricted the claims.
- ☒ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with for the following reasons and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees:

see separate sheet

3. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this opinion:

- ☐ all parts.
- ☒ the parts relating to claims Nos. 1-56 (although not in detail, see separate sheet III and IV).

#### V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims
Inventive step (IS)	Claims 1-56
Industrial applicability (IA)	Claims

**2. Citations and explanations**

**see separate sheet**

**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

**see separate sheet**

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**III. Non-establishment of opinion:**

1. Since most clarity problems identified in the First Written Opinion still apply, a detailed examination as to novelty and inventive step is not yet practicable, although the general comments given in the First Written Opinion under Section V are still considered valid.
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**IV. Lack of unity:**

1. The lack of unity identified in the First Written Opinion is still present. Moreover, the newly filed system and method independent claims originally relating to the first invention identified in Section IV of the First Written Opinion (Claims 1 and 43) are now claimed in a way such that those independent claims do not share a single general **inventive** concept expressed in terms of the same or corresponding special technical features (i.e., characterising features) which is required by Rule 13.2 PCT, therefore resulting in two separate inventions:

1.a) System for determining a program source based on the output of a correlator (Claims 1-42).

1.b) Method for determining a program source which employs a non-intrusive sensor, wherein the determination is repeated for different channels until the source is identified (Claims 43-45).

These two inventions, together with the one corresponding to the second invention originally identified:

- 2) System for determining an operating mode of a recording/playing device (Claims 46-56)

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now result in a total of three inventions being claimed within the present application

**V. Statement under Rule 66.2(a)(ii) PCT:**

1. The objections raised under Section V of the First Written Opinion still apply to the newly filed claims.
  2. The Applicants have neither expressed their position in respect of the objections previously raised, nor discussed the relevance of the cited documents. If the Applicants would like to submit any comments in any of these respects for consideration at the time of issuing the International Preliminary Examination Report (IPER), they should do so in response to this Written Opinion.
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**VII. Certain defects:**

1. The formal objections raised in the First Written Opinion in respect of the claims (paragraph VII.1) have been overcome with the newly filed set of claims.
  2. However, since no revision of the description has taken place, the remaining objections (see VII.2 of the First Written Opinion) are still valid. Unless corresponding application documents are filed in response to this Written Opinion, those objections will be reflected in the IPER.
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**VIII. Certain observations:**

1. The objection regarding the conciseness of the claims (VIII.1 of the First Written Opinion) has been also overcome with the newly filed set of claims, unlike the remaining objections in respect of formulation as "result to be achieved", lack of essential features, mixture of categories, inconsistency of terminology and presence of vague statements. These remaining objections still apply in respect of the newly filed claims corresponding to those for which the objections were originally raised; if not remedied before, these objections will also have to be reflected in the IPER.